

## REMARKS

### Priority

Applicant has amended the priority statement in the specification to accurately reflect the chain of priority for the instant application. This application is a continuation-in-part application of PCT/US02/00476. The Examiner has stated that PCT/US02/00476 "is a CON" of 09/771,669. (See Office Action, page 8.) PCT/US02/00476 is a continuation-in-part application of U.S. Application No. 09/771,669, as indicated on the front page of WO 02/060393. Applicant's Transmittal Letter To The United States Receiving Office (Exhibit 1) indicates that the Applicant listed the '669 application as a related application and checked the box that states "The present international application ... contains additional subject matter not found in the prior U.S. application(s) identified in paragraph C... ." Box VI of the PCT Request (Exhibit 2) also claimed priority to the '669 application. Therefore, PCT/US02/00476 is a continuation-in-part application of the '669 application.

The Examiner has stated that Continuity/Foreign Data Report for the '669 application does not indicate any reference to 09/056,707 (see Office Action, page 8). Applicant believes this is in error. Applicant directs the Examiner's attention to the Related Application Data on the front page of U.S. Patent No. 6,984,667. The '667 patent is a continuation-in-part application of U.S. Application No. 09/056,707, now U.S. Patent No. 6,689,748. Applicant also directs the Examiner's attention to the Bibliographic Data Sheet dated March 7, 2005 on the Patent Application Information Portal ("PAIR") (Exhibit 3). The Data Sheet states "This is a continuation-in-part / divisional application based on United States Serial No. 09/056,707, filed 04/08/1998, now United States Patent No. 6,689,748."

Based upon the above amendments and remarks, Applicant believes the priority claim of the instant application is now correct.

### Claim Amendments

Applicant has canceled claims 39-44 without prejudice or disclaimer and added claims 45-63. Support for these claims can be found throughout the specification. Specifically, support for claim 45 can be found throughout the specification, and, for example, in paragraphs [013] and [024]. No new matter has been added by these amendments.

### Claim Rejections – 35 U.S.C. § 112, 1<sup>st</sup> Paragraph

The Examiner rejected claims 39 and 42-44 under 35 U.S.C. § 112, 1<sup>st</sup> paragraph, as allegedly containing new matter. The Examiner stated that the amendment to now-canceled claim 39 was rendered moot by the previous amendment that replaced “protecting” with “treating.” (*See* Office Action, page 9.) However, the Examiner maintained the rejections in dependent claims 43 and 44 (both now canceled) because both claim 43 and 44 recited the term “protecting.” (*See id.*) None of new claims 45-61 recite the term “protecting”; each new claim is directed to either “[a] composition for treating...” or “[a] method of treating...” Applicant believes the new claims satisfy the requirements of 35 U.S.C. § 112, 1<sup>st</sup> paragraph.

The Examiner also rejected claim 42 under 35 U.S.C. § 112, 1<sup>st</sup> paragraph, as allegedly not complying with the written description requirement and containing new matter. (*See id.*) The Examiner alleged that the application did not teach the claimed ranges. (*See id.*) Applicant has canceled claim 42. Claims 50, 54-55, 57, and 59 include ranges that correspond to the ranges in the specification. Support for the claimed ranges can be found in paragraphs [034] and [037]. Applicant believes these new claims satisfy the requirements of 35 U.S.C. § 112, 1<sup>st</sup> paragraph.

Based on the foregoing amendments and remarks, Applicant believes the amended claims comply with 35 U.S.C. § 112, 1<sup>st</sup> paragraph.

### Claim Rejections – 35 U.S.C. § 112, 2<sup>nd</sup> Paragraph

The Examiner rejected claim 42 under 35 U.S.C. § 112, 2<sup>nd</sup> paragraph, for purportedly broadening the scope of the claim from which it depended (now-canceled claim 39). Claim 42 has been canceled. Applicant believes the amended claims fully comply with 35 U.S.C. § 112, 2<sup>nd</sup> paragraph.

Claim Rejections – 35 U.S.C. § 103(a)

The Examiner has rejected claims 39-41 as allegedly being unpatentable over cited Lindsberg et al. (U.S. Publication No. 2006/0210551). (*See id.*, page 6.) As noted by the Examiner, the earliest filing date that Lindsberg et al. could claim is February 13, 2003. (*See id.*, page 11.) Applicant has cancelled claims 39-41. However, to the extent the Examiner may apply this prior art rejection to the new claims, because Applicant has amended the priority claim to correctly claim priority back to 1998, Lindsberg et al. cannot be prior art to the instant claims. Applicant respectfully requests that the rejection be withdrawn and not applied to the new claims.

**CONCLUSION**

Applicant believes the rejections maintained in the Office Action have been overcome and that the application is in condition for allowance. Applicant respectfully requests that a timely Notice of Allowance be issued.

A two-month Petition for Extension of Time is filed with this submission. The Director is hereby authorized to charge Deposit Account No. 08-0219, under Order No. 2003133.125US11, the fee of \$245.00 pursuant to 37 C.F.R. § 1.17(a).

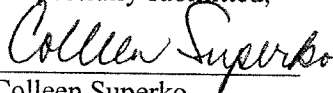
The Director is also hereby authorized to charge Deposit Account No. 08-0219, under Order No. 2003133.125US11, the fee of \$405 filed herewith pursuant to 37 C.F.R. § 1.17(e).

Applicant believes no additional fees are due with this Request for Continued Examination and Response to Final Office Action. However, if such a fee is due, or a credit is owed, the Director is hereby authorized to make them to our Deposit Account No. 08-0219, under Order No. 2003133.00125US11.

The Examiner is encouraged to call the undersigned at the telephone number given below to move this application towards allowance.

Dated: November 17, 2008

Respectfully submitted,



Colleen Superko  
Registration No.: 39,850  
Attorney for Applicant

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(617) 526-6000 (telephone)  
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Application No.: 10/811,839  
Request for Continued Examination dated 11/17/2008  
Reply to Office Action dated 6/17/2008

Docket No.: 2003133.00125US11

**EXHIBIT 1**

TRANSMITTAL LETTER TO THE  
UNITED STATES RECEIVING OFFICE

Date	January 2, 2002
International Application No.	TBA
Attorney Docket No.	51275/111

I. Certification under 37 CFR 1.10 (if applicable)

Express Mail mailing number
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Date of Deposit
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I hereby certify that the application/correspondence attached hereto is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231

Signature of person mailing correspondence
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Typed or printed name of person mailing correspondence
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II. [KEYBOARD] New International Application

TITLE	Proteoglycan Compositions For Treatment of Inflammatory Diseases
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Earliest priority date (Day/Month/Year)
30 January 2001

SCREENING DISCLOSURE INFORMATION: In order to assist in screening the accompanying international application for purposes of determining whether a license for foreign transmittal should and could be granted and for other purposes, the following information is supplied. (Note: check as many boxes as apply):

- A. ☐ The invention disclosed was not made in the United States.  
 B. ☐ There is no prior U.S. application relating to this invention.  
 C. ☒ The following prior U.S. application(s) contain subject matter which is related to the invention disclosed in the attached international application. (NOTE: *priority to these applications may or may not be claimed on form PCT/RO/101 (Request) and this listing does not constitute a claim for priority*)

application	09/771,669	application	
application		application	

- D. ☐ The present international application ☐ is identical to ☐ contains less subject matter than that found in the prior U.S. application(s) identified in paragraph C above.

E. ☒ The present international application [TBA] contains additional subject matter not found in the prior U.S. application(s) identified in paragraph C above. The additional subject matter is found on pages 14 and 15 and ☒ DOES NOT ALTER ☐ MIGHT BE CONSIDERED TO ALTER the general nature of the invention in a manner which would require the U.S. application to have been made available for inspection by the appropriate defense agencies under 35 U.S.C. 181 and 37 CFR 5.1. See 37 CFR 5.15.

III. ☐ A Response to an Invitation from the RO/US. The following document(s) is(are) enclosed:

- A. ☐ A Request for An Extension of Time to File a Response  
 B. ☒ A Power of Attorney (General or Regular)  
 C. ☐ Replacement pages:

pages		of the request	pages		of the
pages		of the description	pages		of the
pages		of the claims			

- D. ☐ Submission of Priority Documents

E. ☒ Fees as specified on attached Fee Calculation sheet form PCT/RO/101 annex

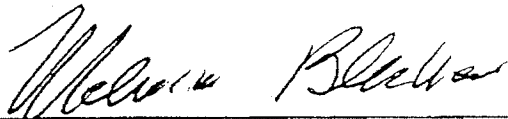
IV. ☐ A Request for Rectification under PCT Rule 91 ☐ A Petition ☐ A Sequence Listing Diskette

V. ☐ Other (please identify):

The person signing this form is the: ☐ Applicant  
Representative

☒ Attorney/Agent (Reg. No. 33,649)

☐ Common

Typed name of signer	Dr. Melvin Blecher	Signature	
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Application No.: 10/811,839  
Request for Continued Examination dated 11/17/2008  
Reply to Office Action dated 6/17/2008

Docket No.: 2003133.00125US11

**EXHIBIT 2**



For receiving Office use only

# PCT

## REQUEST

The undersigned requests that  
the present  
international application be  
processed  
according to the Patent  
Cooperation Treaty.

International Application No.

International Filing Date

Name of receiving Office and "PCT  
International Application"

Applicant's or agent's file reference  
(if desired) (12 characters maximum)

Box No. I TITLE OF INVENTION	
Proteoglycan Compositions For Treatment of Inflammatory Conditions	
Box No. II APPLICANT	
<p>Name and address: (Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (i.e. country) of residence if no State of residence is indicated below.)</p> <p>THEOHARIDES, Theoharis C. 14 Parkman Street Brookline, MA 02446 U.S.A.</p>	
<p>[X] This person is also inventor.</p> <p>Telephone No. 617-232-1337</p> <p>Facsimile No. 617-232-1337</p> <p>Teleprinter No.</p>	
State (i.e. country) of nationality: U.S.A.	State (i.e. country) of residence: U.S.A.
<p>This person is applicant for purposes of [X] all designated States; [ ] the United States only; [ ] the States indicated in the Supplemental Box</p>	
Box No. III FURTHER APPLICANT(S) AND/OR (FURTHER) INVENTOR(S)	
<p>Name and address: (Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (i.e. country) of residence if no State of residence is indicated below.)</p>	
<p>This person is:</p> <p>applicant only</p> <p>] applicant and inventor</p> <p>] inventor only (If this check-box is marked, do not fill in below.)</p>	
State (i.e. country) of nationality:	State (i.e. country) of residence:
<p>This person is applicant for the purposes of: [ ] all designated States; [ ] all designated States except the United States of America; [ ] the United States of America only; [ ] the States indicated in the Supplemental Box</p>	
Further applicants and/or (further) inventors are indicated on a continuation sheet.	
Box No. IV AGENT OR COMMON REPRESENTATIVE; OR ADDRESS FOR	

The person identified below is hereby/has been appointed to act on behalf <input checked="" type="checkbox"/> agent <input type="checkbox"/> common representative of the applicant(s) before the competent International Authorities as:	
<b>Name and address:</b> <i>(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)</i>  LAW OFFICES OF DR. MELVIN BLECHER 4329 VAN NESS STREET NORTHWEST WASHINGTON, D.C. 20016-5625 United States of America per: BLECHER, MELVIN	<b>Telephone No.</b> (202) 363-0373
	<b>Facsimile No.</b> (202) 362-8404
	<b>Teleprinter No.</b>
<input type="checkbox"/> Mark this check-box where no agent or common representative is/has been appointed and the space above is used instead to indicate a special address to which correspondence should be sent.	

## Box No. V DESIGNATION OF STATES

The following designations are hereby made under Rule 4.9(a) (mark the applicable check-boxes; at least one must be marked):  
Regional Patent

☐ AP ARIPO Patent: KE Kenya, LS Lesotho, MW Malawi, SD Sudan, SZ Swaziland, UG Uganda and any other State which is a Contracting State of the Harare Protocol and of the PCT

☐ EA Eurasian Patent: AM Armenia, AZ Azerbaijan, BY Belarus, KG Kyrgyzstan, KZ Kazakstan, MD Republic of Moldova, RU Russian Federation, TJ Tajikistan, TM Turkmenistan, and any other State which is a Contracting State of the Eurasian Patent Convention and of the PCT

☒ EP European Patent: AT Austria, BE Belgium, CH and LI Switzerland and Liechtenstein, DE Germany, DK Denmark, ES Spain, FI Finland, FR France, GB United Kingdom, GR Greece, IE Ireland, IT Italy, LU Luxembourg, MC Monaco, NL Netherlands, PT Portugal, SE Sweden, and any other State which is a Contracting State of the European Patent Convention and of the PCT

☐ OA OAPI Patent: BF Burkina Faso, BJ Benin, CF Central African Republic, CG Congo, CI Côte d'Ivoire, CM Cameroon, GA Gabon, GN Guinea, ML Mali, MR Mauritania, NE Niger, SN Senegal, TD Chad, TG Togo, and any other State which is a member State of OAPI and a Contracting State of the PCT (if other kind of protection or treatment desired, specify on dotted line) . . . . .

National Patent (if other kind of protection or treatment desired, specify on dotted line):

<input type="checkbox"/> AL	Albania . . . . .	<input type="checkbox"/> LU	Luxembourg . . . . .
<input type="checkbox"/> AM	Armenia . . . . .	<input type="checkbox"/> LV	Latvia . . . . .
<input type="checkbox"/> AT	Austria . . . . .	<input type="checkbox"/> MD	Republic of Moldova . . . . .
<input checked="" type="checkbox"/> AU	Australia . . . . .	<input type="checkbox"/> MG	Madagascar . . . . .
<input type="checkbox"/> AZ	Azerbaijan . . . . .	<input type="checkbox"/> MK	The former Yugoslav Republic of Macedonia . . . . .
<input type="checkbox"/> BA	Bosnia and Herzegovina . . . . .		
<input type="checkbox"/> BB	Barbados . . . . .		
<input type="checkbox"/> BG	Bulgaria . . . . .	<input type="checkbox"/> MN	Mongolia . . . . .
<input type="checkbox"/> BR	Brazil . . . . .	<input type="checkbox"/> MW	Malawi . . . . .
<input type="checkbox"/> BY	Belarus . . . . .	<input checked="" type="checkbox"/> MX	Mexico . . . . .
<input checked="" type="checkbox"/> CA	Canada . . . . .	<input type="checkbox"/> NO	Norway . . . . .
<input type="checkbox"/> CH and LI	Switzerland and Liechtenstein . . . . .	<input checked="" type="checkbox"/> NZ	New Zealand . . . . .
<input type="checkbox"/> CN	China . . . . .	<input type="checkbox"/> PL	Poland . . . . .
<input type="checkbox"/> CU	Cuba . . . . .	<input type="checkbox"/> PT	Portugal . . . . .
<input type="checkbox"/> CZ	Czech Republic . . . . .	<input type="checkbox"/> RO	Romania . . . . .
<input type="checkbox"/> DE	Germany . . . . .	<input type="checkbox"/> RU	Russian Federation . . . . .
<input type="checkbox"/> DK	Denmark . . . . .	<input type="checkbox"/> SD	Sudan . . . . .
<input type="checkbox"/> EE	Estonia . . . . .	<input type="checkbox"/> SE	Sweden . . . . .
<input type="checkbox"/> ES	Spain . . . . .	<input type="checkbox"/> SG	Singapore . . . . .
<input type="checkbox"/> FI	Finland . . . . .	<input type="checkbox"/> SI	Slovenia . . . . .
<input type="checkbox"/> GB	United Kingdom . . . . .	<input type="checkbox"/> SK	Slovakia . . . . .
<input type="checkbox"/> GE	Georgia . . . . .	<input type="checkbox"/> TJ	Tajikistan . . . . .
<input type="checkbox"/> HU	Hungary . . . . .	<input type="checkbox"/> TM	Turkmenistan . . . . .
<input type="checkbox"/> IL	Israel . . . . .	<input type="checkbox"/> TR	Turkey . . . . .
<input type="checkbox"/> IS	Iceland . . . . .	<input type="checkbox"/> TT	Trinidad and Tobago . . . . .
<input checked="" type="checkbox"/> JP	Japan . . . . .	<input type="checkbox"/> UA	Ukraine . . . . .
<input type="checkbox"/> KE	Kenya . . . . .	<input type="checkbox"/> UG	Uganda . . . . .
<input type="checkbox"/> KG	Kyrgyzstan . . . . .	<input checked="" type="checkbox"/> US	United States of America . . . . .
<input type="checkbox"/> KP	Democratic People's Republic of Korea . . . . .		
<input type="checkbox"/> KR	Republic of Korea . . . . .		
<input type="checkbox"/> KZ	Kazakstan . . . . .		
<input type="checkbox"/> LC	Saint Lucia . . . . .		
<input type="checkbox"/> LK	Sri Lanka . . . . .		
<input type="checkbox"/> LR	Liberia . . . . .		
<input type="checkbox"/> LS	Lesotho . . . . .		
<input type="checkbox"/> LT	Lithuania . . . . .		

(This is a continuation-in-part application for the US)

☐ UZ Uzbekistan . . . . .  
☐ VN Viet Nam . . . . .  
 Check-boxes reserved for designating States (for the purposes of a national patent) which have become party to the PCT after issuance of this sheet:  
☐ YU Yugoslavia . . . . .  
☐ GH Ghana . . . . .  
☐ . . . . .  
☐ . . . . .

KEYBOARD() In addition to the designations made above, the applicant also: sur Rule 4.9(b) all designations which would be permitted under the PCT except the designation(s) of

The applicant declares that those additional designations are subject to confirmation and that any designation which is not confirmed before the expiration of 15 months from the priority date is to be regarded as withdrawn by the applicant at the expiration of that time limit. *(Confirmation of a designation consists of the filing of a notice specifying that designation and the payment of the designation and confirmation fees. Confirmation must reach the receiving Office within the 15-month time limit.)*

Box No. VI <b>PRIORITY CLAIM</b> Further priority claims are indicated in the Supplemental Box [ ]			
The priority of the following earlier application(s) is hereby claimed:			
Country (in which, or for which, the application was filed)	Filing Date (day/month/year)	Application No.	Office of filing (only for regional or international application)
item (1) US	30/01/2001	09/771,669	
item (2)			
item (3)			
<p>Mark the following check-box if the certified copy of the earlier application is to be issued by the Office which for the purposes of the present international application is the receiving Office (a fee may be required):</p> <p>The receiving Office is hereby requested to prepare and transmit to the International Bureau a certified copy of</p> <p><input checked="" type="checkbox"/> the earlier application(s) identified above as item(s): (1)</p>			
Box No. VII <b>INTERNATIONAL SEARCHING AUTHORITY</b>			
<p>Choice of International Searching Authority (ISA) (If two or more International Searching Authorities are competent to carry out the international search, indicate the Authority chosen; the two-letter code may be used):    <b>EPO</b></p> <p>Earlier search Fill in where a search (international, international-type or other) by the International Searching Authority has already been carried out or requested and the Authority is now requested to base the international search, to the extent possible, on the results of that earlier search. Identify such search or request either by reference to the relevant application (or the translation thereof) or by reference to the search request:</p> <p>Country (or regional Office):    Date (day/month/year):    Number:</p>			
Box No. VIII <b>CHECK LIST</b>			

<p>This international application contains the following number of sheets:</p> <p>1. request : sheets 4</p> <p>2. description: sheets 15</p> <p>3. claims : sheets 5</p> <p>4. abstract : sheets 1</p> <p>5. drawings : sheets 0</p> <p style="text-align: center; margin-top: 10px;">TOTAL: sheets 25</p>	<p>This international application is accompanied by the item(s) marked below:</p> <p>1. <input type="checkbox"/> separate signed power of attorney</p> <p>2. <input checked="" type="checkbox"/> copy of general power of attorney</p> <p>3. <input type="checkbox"/> statement explaining lack of signature</p> <p>4. <input type="checkbox"/> priority document(s) <i>identified in Box No. VI as item(s):</i></p> <p>5. <input checked="" type="checkbox"/> fee calculation sheet</p> <p>6. <input type="checkbox"/> separate indications concerning deposited microorganisms</p> <p>7. <input type="checkbox"/> nucleotide and/or amino acid sequence listing (diskette)</p> <p>8. <input type="checkbox"/> other (specify):</p> <p>9. <input checked="" type="checkbox"/> Postcard</p>
<p>Figure No. [ ] of the drawings (if any) should accompany the abstract when it is published.</p>	
<p>Box No. IX SIGNATURE OF APPLICANT OR AGENT</p>	
<p><i>Next to each signature, indicate the name of the person signing and the capacity in which the person signs (if such capacity is not obvious from reading the request).</i></p>	
<p><i>MEVIN BLANCHER</i> Jan. 02, 2002</p>	

For receiving Office use only

<p>1. Date of actual receipt of the purported international application:</p>	<p>2. Drawings:</p> <p><input type="checkbox"/> received:</p> <p><input type="checkbox"/> not received:</p>
<p>3. Corrected date of actual receipt due to later but timely received papers or drawings completing the purported international application:</p>	
<p>4. Date of timely receipt of the required corrections under PCT Article 11(2):</p>	
<p>5. International Searching Authority specified by the applicant:</p> <p>ISA/</p>	
<p>6. <input type="checkbox"/> Transmittal of search copy delayed until search fee is paid</p>	

For International Bureau use only

<p>Date of receipt of the record copy by the International Bureau:</p>
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Form PCT/RO/101 (last sheet) (January 1994; reprint January 1997) to the request form

Application No.: 10/811,839  
Request for Continued Examination dated 11/17/2008  
Reply to Office Action dated 6/17/2008

Docket No.: 2003133.00125US11

**EXHIBIT 3**



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
 www.uspto.gov



Bib Data Sheet

CONFIRMATION NO. 8174

SERIAL NUMBER 09/771,669	FILING DATE 01/30/2001  RULE	CLASS 514	GROUP ART UNIT 1615	ATTORNEY DOCKET NO. 51275/107
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APPLICANTS

Theoharis C. Theoharides, Brookline, MA;

\*\* CONTINUING DATA \*\*\*\*\* *This is a continuation-in-part/divisional application based on United States Serial No. 09/056,707, filed 04/08/1998, now United States Patent No. 6,689,748.*

\*\* FOREIGN APPLICATIONS \*\*\*\*\* *None*

IF REQUIRED, FOREIGN FILING LICENSE GRANTED \*\* SMALL ENTITY \*\*  
 \*\* 03/26/2001

Foreign Priority claimed <input type="checkbox"/> yes <input checked="" type="checkbox"/> no	STATE OR COUNTRY MA	SHEETS DRAWING 0	TOTAL CLAIMS 21	INDEPENDENT CLAIMS 8
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35 USC 119 (a-d) conditions met  
☐ yes ☐ no ☐ Met after Allowance

Verified and Acknowledged  
 Examiner's Signature *L. Howard* Initials

ADDRESS  
 28538  
 DR. MELVIN BLECHER  
 4329 VAN NESS ST., NW  
 WASHINGTON, DC  
 20016

TITLE  
 SYNERGISTIC PROTEOGLYCAN COMPOSITIONS FOR INFLAMMATORY CONDITIONS

FILING FEE  RECEIVED 718	FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:	<input type="checkbox"/> All Fees <input type="checkbox"/> 1.16 Fees ( Filing ) <input type="checkbox"/> 1.17 Fees ( Processing Ext. of time ) <input type="checkbox"/> 1.18 Fees ( Issue ) <input type="checkbox"/> Other _____
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	<input type="checkbox"/> Credit
--	---------------------------------